IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.M. JOSEPH

TUESDAY, THE 1ST AUGUST 2006 / 10TH SRAVANA 1928

ST.Rev..No. 424 of 2004()
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TA.300/2002 of S.T.A.TRIBUNAL,ADDL.BENCH,KZD.
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REVISION PETITIONER
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K.KUNHIMOIDEEN HAJI,
KADOOR ESSENTIAL OIL, KADOOR,
CHERUPAZHASSI P.O., KANNUR DISTRICT.

BY ADV. SRI.K.B.MUHAMED KUTTY
SRI.K.M.FIROZ

RESPONDENTS:
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STATE OF KERALA REPRESENTED BY THE
SECRETARY TO GOVERNMENT,
TAXES DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM.

BY \OVERNMENT PLEADER SRI.V.V. ASOKAN

THIS SALES TAX REVISION HAVING COME UP FOR ADMISSION ON 01/08/2006, ALONG WITH STRV NO. 427 OF 2004 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR &
K.M.JOSEPH, JJ.

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S.T.Rev. NO. 424 & 427 OF 2004

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Dated this the 1st day of August, 2006

JUDGMENT

**Ramachandran Nair,J.**

The question arising in the connected ST Revs. pertaining to sales tax assessment for 1997-98 is only against addition sustained by the Tribunal. We find from the order of the Tribunal that rejection of books of accounts is for valid reasons. The balance is only a question of estimation of turnover which was done by three lower authorities differently. We do not think we have any jurisdiction to substitute our estimation in the place of what is sustained by the Tribunal, which is the last fact finding authority under the statute. Even though counsel for the assessee submitted that Tribunal has no basis to deviate from the basis of addition sustained by the first appellate authority, we find from the order of the first appellate authority that addition by him was also based on guess work and not based on any specific material. Moreover, turnover determined by the Tribunal appears to be realistic because without such turnover factory itself cannot be run viably. In

the circumstances, we do not find any question of law arising from the order of the Tribunal warranting our interference. ST Revs. are therefore devoid of any merit and are dismissed. Even though ST Revs. are dismissed, we find on account of stay granted by this Court, the assessee will have to pay high rate of tax at two per cent per month for the balance tax payable. In the circumstances, if the assessee has complied with the interim orders of this Court, interest is reduced to 15 per cent per annum, provided the assessee clears the balance arrears of tax with interest at 15% per annum within three weeks from the date of receipt of a copy of this judgment.

(C.N.RAMACHANDRAN NAIR)
Judge

(K.M.JOSEPH)
Judge